

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**STANDING ORDER FOR CRIMINAL CASES BEFORE JUDGE VINCE CHHABRIA**

**CONFORMITY WITH RULES**

1. The parties shall follow the Federal Rules of Criminal Procedure, the Criminal Local Rules, and the General Orders of the Northern District of California, except as superseded by this Court's standing order.

**SCHEDULING**

2. The criminal law and motion calendar takes place on Tuesdays at 10:30 a.m. If a matter needs to be specially set (for example, if the matter is under seal or involves many defendants), please contact Kristen Melen, Judge Chhabria's Courtroom Deputy, at [vccrd@cand.uscourts.gov](mailto:vccrd@cand.uscourts.gov).

**CHANGE OF PLEA**

3. If a plea is being entered pursuant to a plea agreement, counsel for the government shall email a copy of the plea agreement to Kristen Melen at [vccrd@cand.uscourts.gov](mailto:vccrd@cand.uscourts.gov) no later than noon the Friday before the plea is to be entered.

**MOTIONS**

4. Motions should be filed and noticed in accordance with Criminal Local Rule 47-2 unless otherwise ordered.

**SEALED FILINGS**

5. For any documents submitted under seal, the parties shall provide a courtesy paper copy, as required by Criminal Local Rule 56-1, and a courtesy electronic copy. The electronic copy may be provided via a portable USB drive or compact disk.

## **PRETRIAL FILINGS**

### **Pretrial Statement**

6. No later than fourteen days before the pretrial conference, the parties must file a joint pretrial statement that addresses the items listed in Criminal Local Rule 17.1-1(b).

### **Motions in Limine**

7. Any motions in limine must be filed no later than fourteen days before the pretrial conference. Oppositions must be filed at least seven days before the pretrial conference. No reply papers will be considered.

### **Jury Instructions**

8. The parties should file joint proposed jury instructions and send a copy in Word format to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov) no later than seven days before the pretrial conference. Where possible, the parties should use the Ninth Circuit Model Jury Instructions, and they should clearly identify any changes to the model instructions.

9. Instructions on which the parties agree must be identified as "Stipulated Jury Instruction No. \_\_\_ Re \_\_\_\_\_," with the blanks filled in as appropriate.

10. If the parties disagree on an instruction, each party's proposed version of the disputed instruction shall be provided and identified as "Disputed Instruction No. \_\_\_\_ Re \_\_\_\_\_ Offered by \_\_\_\_\_," with the blanks filled in as appropriate. All proposed versions of the same instruction shall bear the same number. Following each set of proposed versions of a disputed instruction, each party shall explain, in no more than one page, why the Court should give that party's proposed instruction.

11. If the parties dispute whether a particular instruction should be given at all, the proponent of the instruction shall provide proposed language, identified as "Disputed Instruction

No. \_\_\_\_ Re \_\_\_\_\_ Offered by \_\_\_\_\_," with the blanks filled in as appropriate. Following the disputed instruction, each party shall explain, in no more than one page, why the instruction should or should not be given.

12. The parties do not need to submit instructions from Chapters 1-3 of the Ninth Circuit Manual, but they must indicate which of these instructions should be included and which should be omitted.

13. The proposed jury instructions should not mention the indictment or the United States Code unless there's a compelling reason to do so. The instructions can simply refer to the defendant as having been charged in "Count One" with X, in "Count Two" with Y, and so forth.

*Jury Questionnaire*

14. In most cases, jury selection will involve the use of a written questionnaire. The standard questionnaire is available on Judge Chhabria's website. The parties should jointly submit proposed questions to add to the standard written questionnaire no later than seven days before the pretrial conference. The parties should indicate whether they agree on a proposed question. If they disagree, they may submit competing proposed questions, or specify that one side believes the question should be asked and the other does not. However, no argument may be included in this submission.

15. Also no later than seven days before the pretrial conference, the parties should submit objections to any aspect of the standard written questionnaire. Please note that the parties will get to ask questions in voir dire, so there is no need to include every question in the written questionnaire.

*Proposed Description of the Case*

16. No later than seven days before the pretrial conference, the parties should jointly file, and send in Word format to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov), a proposed description of the case. The description will be inserted into the instruction sheet for the written jury questionnaire and will be repeated orally to prospective jurors when they come to the courtroom. If the parties can't agree on a description, they may file one document with competing descriptions (but without any argument). Again, the description of the case should not refer to the indictment or to the United States Code unless there's a compelling reason to do so.

*Proposed Additional Voir Dire Questions*

17. No later than seven days before the pretrial conference, the parties should submit separate lists of additional questions that they reasonably anticipate asking prospective jurors during voir dire, or questions that they want Judge Chhabria to ask. Objections to the other side's list will be considered at the pretrial conference but don't need to be filed.

*Verdict Forms*

18. No later than seven days before the pretrial conference, the parties must jointly file either an agreed-upon proposed verdict form or competing proposed verdict forms. At the same time, they must send a copy of any proposed verdict form to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov).

*Exhibit Lists*

19. No later than seven days before the pretrial conference, the parties must jointly file a list of exhibits. They need not submit the exhibits themselves at this time, unless instructed otherwise by Judge Chhabria.

*Witness Lists*

20. No later than seven days before the pretrial conference, the parties must file lists of potential witnesses to be called at trial, other than solely for impeachment or rebuttal.

*Involved Individual Lists*

21. No later than seven days before jury selection, the parties must jointly file, and send in Word format to [vcpo@cand.uscourts.gov](mailto:vcpo@cand.uscourts.gov), a list of people involved in the case. This list will be appended to the jury questionnaire, and prospective jurors will be asked to circle the names of any people they personally know. The list should include counsel, the defendant or defendants, potential witnesses, and any other people significantly involved in the case.

**PRETRIAL CONFERENCE**

22. At the pretrial conference, the parties should be prepared to address motions in limine, jury instructions, the written questionnaire, proposed voir dire, the verdict form, and any issues relating to exhibits or evidence.

23. In advance of the pretrial conference, Judge Chhabria will typically file "Court's Draft Jury Instructions (1)," based on the submission by the parties. The parties should review this document carefully to see what was included and what was excluded or changed from their submission. Judge Chhabria will work off this document with the lawyers during the pretrial conference, hearing any objections to the draft (including objections about anything from the parties' submission that was omitted).

24. Closer to the end of trial, Judge Chhabria will file "Court's Draft Jury Instructions (2)," which will incorporate discussion from the pretrial conference and any developments from trial. The parties should review this document carefully to make sure it comports with the

discussion at the pretrial conference. Judge Chhabria will hear objections to this draft before creating a final set of instructions for the jury.

## **EXHIBITS**

### **A. ORIGINAL TRIAL EXHIBITS**

25. The parties must jointly prepare a single set of all trial exhibits that will be the official record set to be used with the witnesses at trial and, if applicable, on appeal.

26. No later than five days before trial, the parties shall deposit this set of trial exhibits with the Clerk's office. The exhibits shall be provided in three-ring binders, with each exhibit tagged, three-hole-punched, and separated with a label divider identifying the exhibit number. A spine label on each binder should be marked "Original" and indicate the numbers of the exhibits contained therein.

27. Exhibits shall be sequentially numbered (not lettered). If possible, parties shall use the same number to mark an exhibit for trial as that used in depositions. Blocks of numbers should be assigned to fit the needs of the case (e.g. the Government has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). On the first day of trial, the parties shall inform Kristen Melen which exhibits are offered by which party.

28. A single exhibit should be marked only once. If the government has marked an exhibit, the defendant should not re-mark the same document with another number. Different versions of the same document (e.g. versions of a document with and without additional handwriting), however, must be treated as different exhibits and marked with different numbers.

29. To avoid any party claiming "ownership" of an exhibit, all exhibits shall be marked and referred to as "Trial Exhibit No. \_\_\_\_\_," not as "Government's Exhibit" or "Defendant's Exhibit."

30. Each exhibit shall be tagged as follows:

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</p> <p><b>TRIAL EXHIBIT 100</b></p> <p>Case No. _____</p> <p>Date Entered _____</p> <p>By _____ Deputy Clerk</p>
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31. Judge Chhabria prefers but does not require that the exhibit tags be in a color that will stand out (yet still allow for photocopying).

32. Counsel should fill in the exhibit and case numbers, but leave the other spaces ("Date Entered" and "By") blank.

33. Exhibit tags shall be placed on or near the lower right-hand corner of each exhibit, unless the exhibit is a photograph, in which case the tag shall be placed on the back.

#### **B. COPY SETS OF EXHIBITS**

34. In addition to the official record exhibits, two sets of binders containing copies of the exhibits and one copy of the exhibits in electronic form (on a portable USB drive or compact disk) must be provided to the Clerk's office no later than five days before trial. One set of binders should be marked as "Chambers Copy" and the other as "Clerk's Copy." Each exhibit must be separated with a label divider identifying the exhibit number. Exhibit tags are unnecessary (but permitted) for the copy sets. Each binder should bear a spine label indicating

the numbers of the exhibits contained therein. The electronic copy of the exhibits should contain each exhibit as a separate file, with each file named so that the exhibits appear sequentially when sorted by file name.

### **C. TREATMENT OF EXHIBITS DURING TRIAL**

35. Counsel must consult with each other and with Kristen Melen at the end of each trial day about which exhibits are in evidence and any limitations thereon. If there are any disagreements, counsel should promptly bring them to Judge Chhabria's attention.

36. The parties must provide agreed-upon written transcripts of the content of any audio or video exhibits to be used at trial. Failure to provide an agreed-upon transcript by the day an exhibit is offered will preclude the exhibit's admission.

37. At the close of evidence, before closing arguments, counsel must confer with the Kristen Melen to make sure the exhibits in evidence are in good order.

38. Exhibit notebooks for the jury will not be permitted without prior permission from Judge Chhabria.

39. Publication may be by poster blow-up, use of the courtroom electronic evidence presentation system, overhead projection, or such other method as is allowed in the circumstances. It is permissible to highlight, circle, or underscore in the enlargements as long as it is clear that the alterations are not on the original.

40. Each party shall retain a full set of exhibits after trial through the appellate process. It is each party's responsibility to make arrangements with the Clerk of the Court to file the record on appeal.

### **PRETRIAL ARRANGEMENTS**

41. Should a daily transcript and/or real-time reporting be desired, the parties shall



make arrangements with Rick Duvall, Court Reporter Supervisor, at (415) 522-2079, at least 14 days before the trial date.

42. Prior to the start of trial, the parties must provide the Court Reporter a jointly-created list of names, places, and any uncommon terms or acronyms that are likely to come up during the trial.

43. If any witness will require an interpreter at trial, counsel shall notify Kristen Melen at least 30 days before the commencement of trial.

44. The parties should contact Kristen Melen, no later than one week before trial, to discuss any questions or issues about the layout of the courtroom.

45. The Court may be able to provide access to an easel and the courtroom electronic evidence presentation system. The parties should consult <https://cand.uscourts.gov/courtroomtech> for information on the available courtroom technology. During trial, counsel may wish to use overhead projectors, laser-disk/computer graphics, poster blow-ups, models, or specimens of devices. The parties must provide such equipment. Counsel should share equipment to the maximum extent possible. The United States Marshal requires a court order to allow equipment into the courthouse. To request such an order, the parties should contact the Kristen Melen no later than 10 days before trial. For electronic equipment, the parties should arrange with Kristen Melen no later than one week before trial a date to set up and test the equipment in advance of trial and be prepared to maintain the equipment during trial. The parties shall tape extension cords to the carpet for safety.

### **JURY SELECTION**

46. The prospective jurors will fill out their questionnaires in the jury office first thing in the morning. After the jury office has collected the questionnaires, it will make copy sets: one for the government, one for each defendant, and one for the Court. Counsel will be given a brief

period to review the questionnaires in the courtroom before the prospective jurors are summoned from the jury office. As discussed above, counsel will have an opportunity to propose case-specific questions for inclusion in the questionnaire. However, counsel will also have ample opportunity to ask questions of prospective jurors during voir dire.

47. After the prospective jurors come to the courtroom, Judge Chhabria will discuss hardships with them. Judge Chhabria may then ask a few questions of prospective jurors but will soon turn over voir dire to the lawyers.

48. Immediately after jury selection, the parties must return their copy sets of the questionnaires to Kristen Melen. Judge Chhabria's standard practice will be to maintain one set of questionnaires, under seal, for ten years, in the event they become relevant during post-trial litigation.

### **TRIAL**

49. Trial begins promptly at 8:30 a.m. each day and ends between 2:00 and 2:30 p.m., with a 45-minute lunch break.

50. The parties must be present starting at 8:00 a.m. each day in the event matters need to be discussed outside the jury's presence.

51. Counsel must notify the other side of the witnesses who will be called the following two trial days.

**IT IS SO ORDERED.**

Dated: April 7, 2017



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Vince Chhabria  
United States District Judge